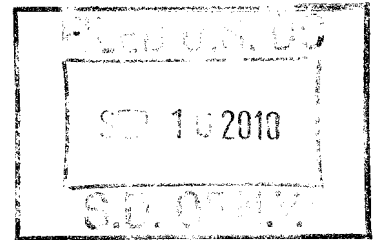


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



----- X
SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

MARC J. GABELLI and BRUCE ALPERT,

Defendants.
----- X

Civil Action No. 08-CV-3868 (DAB)

NOTICE OF CROSS-APPEAL

NOTICE is hereby given that Defendant Bruce Alpert hereby cross-appeals to the United States Court of Appeals for the Second Circuit from the portions of the District Court's order dated March 17, 2010, denying Alpert's motion to dismiss with respect to Plaintiff's claim against him for aiding and abetting violations of Sections 206(1) and 206(2) of the Investment Advisers Act and Plaintiff's remedy of disgorgement, and from the portion of the District Court's order dated July 28, 2010, dismissing Plaintiff's remedy of disgorgement without prejudice. These orders were made final on August 17, 2010, the date judgment was entered.

Dated: New York, New York
September 16, 2010

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